Nova Scotia Utility and Review Board
Annual Accountability Report
For the Fiscal Year Ended March 31, 2011

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Accountability Statement

The accountability report of the Nova Scotia Utility and Review Board for the year ended March 31, 2011, is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Board's Statement of Mandate for the fiscal year 2010-2011. The reporting of the Board's outcomes necessarily includes estimates, judgements and opinions by management.

It is acknowledged that this accountability report is the responsibility of the Board's management. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Board's 2010-2011 Statement of Mandate.

Peter W. Gurnham, QC, Chair

Paul G. Allen, CA, Executive Director

Introduction

This accountability report reflects on progress made in achieving the outcomes set out in the 2010-2011 Statement of Mandate for the Board. The Board recommends that this accountability report be read in conjunction with that Statement of Mandate.

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Financial Results

Nova Scotia Utility & Review Board - Estimated Budget Expenditures				
	Budget 2010-2011	Actual 2010-2011	Variance	See Notes
	000's	000's	000's	
Revenues (non-capital):				
Operating Grant from Province of Nova Scotia	3,854	3,600	(254)	1
Recoveries from utilities and others	3,615	3,607	(8)	
Unbudgeted operations	-	2,579	2,579	2
Total revenues	7,469	9,786	2,317	
Expenditures (non-capital):				
Budgeted	7,469	6,931	(538)	
Unbudgeted operations	-	2,579	2,579	2
	7469	9,510	2,041	
Net income (loss)	-	276	276	
Restricted & unrestricted surplus, beginning of year	545	545	-	
Restricted & unrestricted surplus, end of year	545	821	276	
Salaries and benefits	5,239	5,083	(156)	
Funded Members and staff (FTE's)	59	58	(1)	

Notes

1. A grant amount of $4,004,000 was approved by Public Service Vote for 2010-2011. Total funding actually required and drawn by grant for the year was $3,934,000. Included in the amount drawn was $254,000 for small capital purchases. A total of $333,765 from all sources was set aside for the purchase of capital assets and thus excluded from operating revenue. The Board purchases capital assets from the funding provided by the Province of Nova Scotia and the utilities. Occasionally larger purchases are supported by separately identified funding. Revenue relating to capital assets is deferred and amortized at the same rate as the related capital assets. Funding provided for planned capital asset acquisitions is also deferred until the year of acquisition and then amortized to revenue over the life of the related asset.

2. Consultants are engaged by the Board to provide advice related to matters such as utility and natural gas operations and to provide expert testimony during hearings. Consulting fees for specific hearings are generally recovered directly from the entities involved. Expenses and recoveries relating to large hearings cannot be reasonably predicted or estimated in advance, accordingly, no provision is made for these activities in the budget. The Board also recovers certain transcription, copying and other direct expenses from various sources.

The complete audited financial statements of the Board are published annually in Part II of the Public Accounts for the Province of Nova Scotia.

Measuring Our Performance

For ease of understanding reporting on performance has been separated by major mandate area. The two mandate areas are: quasi-judicial function and motor carrier (public passenger) administration.

Mandate Area 1: Quasi-judicial Function

The core mandate of the Board is to fairly and independently resolve matters. Performance measurement in a quasi-judicial context must be carefully designed due to the "custom" or "one-time" nature of many applications and appeals. For example, some hearings require reviews of large amounts of evidence, involve many parties, and can take a number of months to schedule and complete. Other matters may only require the review of small amounts of evidence and, after scheduling, need only a few days to complete. Activity and speed measures do not equate to quality of decision making or due legal process. Regardless of the type of hearing the primary emphasis must always be on producing an unbiased, timely, fair and legally correct decision.

Desired Outcome:	Independently and fairly resolve matters.
Measures:	Percentage of hearing decisions issued within 90 days of receipt of final submissions. Percentage of planning decisions issued within 60 days of receipt of final submissions. Percentage of decisions in relation to interlocutory matters released within 10 business days of final submission. Average total time for processing case files.
Targets:	95% or more of decisions released within stated timeline for 90 day matters. 100% of decisions released within stated timeline for 60 day planning matters. 95% or more of decisions released within stated timeline for 10 day or interlocutory matters.
What Do these Measures Tell Us?	These measures show how timely the Board is at resolving matters.

Where Are We Now and Reporting on 2010-2011 Targets?

As can be seen from Schedule 1 on the next page there is an overall success rate of 97.4% for all cases.

Average decision times by mandate are presented in Schedule 2. Variations in average times can be expected from year to year. Larger, more complex hearings take more time to decide and cause the average to increase. Conversely, larger numbers of single issue hearings take less time to decide and cause the average to decrease.

The success rate for 90 day matters was slightly better than that of the preceding year at 95.6%.

The success rate for planning matters was 85.7%. That was based on 12 of the 14 separate matters having a decision rendered within the 60 day target. There were four interlocutory matters requiring written decisions included in the results in Schedule 2. As interlocutory decisions are considered to be within the main proceeding they are not considered in this success rate calculation. It should be noted that the average decision writing time for planning matters, including interlocutory decisions, was 35 days.

The success rate for 10 day matters was 99.5% which exceeds the compliance target of 95%.

Where do we want to be?

Success is measured against the target writing times for the specific type of matter. Additional targets, as may be established by statute or the Board, may be added in future. At this time we wish to continue to have a success rate that is as high as possible while respecting the primary emphasis of producing an unbiased, timely, fair and legally correct decision. No targets have been set for average times to decision in recognition of the higher priority being placed on fairness and correctness. The information will continue to be monitored and the averages kept as low as possible.

Schedule 1 – Success by Writing Time

Summary results for compliance with policy on decision production times are as follows:

Decision writing targets[1]	2010-2011			2009-2010		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
90 days	388	371	95.6%	434	412	94.9%
60 days	79	73	92.4%	93	91	97.9%
30 days	1	1	100.0%	0	0	NA
20 days	0	0	NA	2	2	100.0%
15 days	0	0	NA	4	4	100.0%
10 days	548	545	99.5%	711	708	99.6%
Combined	1016	990	97.4%	1244	1217	97.8%

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[1]Decision writing times are measured from the date of receipt of final evidence to the date of issuance of the Decision. 10 day matters are expressed in working days. All others are calendar days.

Schedule 2 – Average Writing Time by Matter Type

Average decision production times by area of jurisdiction are as follows:

Jurisdiction / Mandate	2010-2011		2009-2010	
	Number of Decisions (all types)	Average Time to Decision (days	Number of Decisions (all types)	Average Time to Decision (days)
Gaming	6	1	6	4
Liquor	536	1	655	1
Theatre & Amusements	2	0[2]	1	0
Assessment	31	25	33	60
Automobile Insurance	65	20	106	14
Criminal Injury Compensation	0	0	0	0
Electricity	115	16	151	26
Expropriation Compensation	9	123	2	194
Fire Safety	4	11	2	56
Heritage Properties	2	92	3	9
Halifax-Dartmouth Bridge Commission	1	63	0	0
Motor Carrier	84	16	81	6
Municipal and School Board Boundaries	1	0[3]	1	159
Natural Gas	32	16	31	3
Payday Loans	1	67	0	0
Petroleum Product Pricing	55	1	29	5
Planning	18	35	12	35
Railways	1	20	1	1
Water	41	20	96	14
Wastewater	12	7	34	10
Total	1016		1244	

[2] All decisions were issued the same day as the matter was considered.
[3] Decision was issued the same day as the matter was considered.

Mandate Area 2: Motor Carrier (Public Passenger) Administration

This will be the last year for reporting of measurements for motor carrier administration. Subsequent to March 31, 2011 responsibility for enforcement and inspection operations has been transferred to the Department of Transportation and Infrastructure Renewal.

The mandate of the Motor Carrier Division of the Board is to provide effective inspection and enforcement services relating to motor carrier operations.

Desired Outcome:	Safe public passenger vehicles.
Measure:	Preventable accidents[4] caused by mechanical failure.
Target:	No preventable accidents caused by mechanical failure.
What Does the Measure Tell Us?	This measure shows the effectiveness of the physical inspection program by looking at the end result. The aim of the safety program is to prevent accidents through regular mechanical inspection, examination of maintenance programs, working with carriers to resolve technical and operating problems, investigating causes of accidents, and enforcement activities.
Where Are We Now and Reporting on 2010-2011 Targets?	The Division investigated a total of 14 accidents during the year (2009-2010: 12). Of those, it is the opinion of the inspectors assigned to investigate that two were caused by mechanical failure or that such failure contributed in a material way.[5]
Where do we want to be?	Our target is to continue to have no accidents which can be attributed to preventable mechanical failure.

On November 6, 2008 the Auditor General released a report based on an examination of the motor carrier safety inspection program. Among the conclusions the Auditor General called into question the effectiveness of this measure as:

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[4] "Preventable accidents" is limited to accidents that result in death, injury or significant property damage. Minor incidents which are not reported are not investigated or otherwise considered.

[5] Note that the purpose of these investigations is to assist in the formulation of better standards and procedures. They are not intended for nor necessarily conducted to a level sufficient to reach conclusions in prosecutions or civil proceedings.

a. Carriers are not required by law to report accidents to the Division.

b. The Division had not documented a specific process for inspectors to record accidents which they were aware of or investigated.

c. Documentation of accident investigation was limited.

The full text of the report can be found on the Auditor General's website at www.oag-ns.ca.

The Division accepted the recommendations and undertook to formalize the investigation process and seek to make accident reporting mandatory. Since that time the Division changed its internal processes for review and documentation of accident investigations, and has included collection of information on accidents as part of a new licensing and inspection information system. Completion of the new information system is expected during 2011.

During the 2010-2011 fiscal year a formal risk assessment was conducted which will help inform policy development and further process changes. Other changes recommended in the report will be reported in future years as they are fully completed.

The strategy to achieve the targeted results includes performing complete inspections twice per year on all licensed vehicles with additional random roadside spot checks throughout the year. During 2010-2011 a total of 5,132 vehicle inspections (2009-2010: 5,031) were reported resulting in 2,744 instances of the vehicle being removed from service (2009-20010: 3,087) for repairs or maintenance. In the vast majority of cases the vehicles were later returned to service after correction of the faults and re-inspection. Enforcement statistics for the year with comparisons for the previous year are as follows:

	2010-2011	2009-2010
Road checks	597	632
Investigations	317	179
Summary offense tickets issued	83	42
Motor Carrier violation reports issued	30	43

Appendix A - List of Statutes Containing Board Mandates

1. *Assessment Act*, R.S.N.S. 1989, c.23 as amended
2. *Consumer Protection Act*, R.S.N.S. 1989, c.92 as amended
3. *Education Act*, S.N.S. 1995-96, c.1 as amended
4. *Electrical Installation and Inspection Act*, R.S.N.S. 1989, c. 141 as amended
5. *Energy Resources Conservation Act*, R.S.N.S., 1989, c.147 as amended
6. *Expropriation Act*, R.S.N.S. 1989, c. 156 as amended
7. *Fire Safety Act*, S.N.S. 2002, c.6
8. *Gaming Control Act* (Part II), S.N.S. 1994-95, c. 4 as amended
9. *Gas Distribution Act*, S.N.S., 1997, c. 4 as amended
10. *Halifax-Dartmouth Bridge Commission Act*, R.S.N.S. 1989, c.192 as amended
11. *Halifax Regional Municipality Water Commission Act*, S.N.S. 1963, c.55 as amended
12. *Heritage Property Act*, R.S.N.S. 1989, c.199 as amended
13. *Insurance Act*, R.S.N.S. 1989, c.231 as amended[6]
14. *Liquor Control Act*, R.S.N.S. 1989, c.260 as amended
15. *Motor Carrier Act* (public passenger only), R.S.N.S. 1989, c.292 as amended
16. *Motor Vehicle Transport Act of Canada*, S.C. 1987, c.35 (Federal) as amended
17. *Municipal Government Act*, S.N.S. 1998, c.18 as amended
18. *Nova Scotia Power Finance Corporation Act*, R.S.N.S. 1989, c.351 as amended
19. *Nova Scotia Power Privatization Act*, S.N.S. 1992, c.8 as amended
20. *Petroleum Products Pricing Act*, S.N.S., 2005, c. 11
21. *Petroleum Resources Act*, R.S.N.S. 1989, c. 342 as amended
22. *Petroleum Resources Removal Permit Act*, S.N.S. 1999 c.7 as amended
23. *Pipeline Act*, R.S.N.S. 1989 c. 345 as amended
24. *Public Utilities Act*, R.S.N.S. 1989, c.380 as amended
25. *Railways Act*, S.N.S. 1993, c.11 as amended
26. *Revenue Act*, S.N.S. 1995-96, c.17 as amended
27. *Technical Safety Act*, S.N.S. 2008, C.10[7]
28. *Theatre and Amusement Act*, R.S.N.S. 1989, c. 466 as amended
29. *Underground Hydrocarbons Storage Act*, S.N.S. 2001, c. 37
30. *Utility and Review Board Act*, S.N.S. 1992, c. 11 as amended
31. *Victims' Rights and Services Act*, R.S.N.S. 1989, c.14 as amended

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[6] Automobile insurance only.
[7] Sections relating to the Board not yet proclaimed.